IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

C. K. GREENWOOD, Plaintiff	§ § §	
v	§	CIVIL ACTION
INDIAN OCEAN BULK CARRIERS AND SOCIETE FRANCAISE de TRANSPORTES MARITIME, Defendants	§ § § § § §	No. C-88-94 (Filed Dec. 12, 1991)

COURT'S INSTRUCTIONS TO THE JURY

MEMBERS OF THE JURY:

Now that you have heard the evidence and the argument of counsel, it becomes my duty to give you the instructions of the Court concerning the law applicable to this case.

It is your duty as jurors to follow the law as I shall state it to you, and to apply that law to the facts as you find them from the evidence in the case. You are not to single out one instruction alone as stating the law, but must consider the instructions as a whole. Neither are you to be concerned with the wisdom of any rule of law stated by me. Regardless of any opinion you may have as to what the law is or ought to be, it would be a violation of your sworn duty to base a verdict upon any view of the law other than that given in the instructions of the Court, just as it would also be a violation of your sworn

duty, as judges of the facts, to base a verdict upon anything other than the evidence in the case.

In deciding the facts of this case you must not be swayed by bias or prejudice or favor as to any party. Our system of law does not permit jurors to be governed by prejudice or sympathy or public opinion. Both parties and the public expect that you will carefully and impartially consider all of the evidence in the case, follow the law as stated by the Court, and reach a just verdict regardless of the consequences.

This case should be considered and decided by you as an action between persons of equal standing in the community, and holding the same or similar stations in life. A corporation is entitled to the same fair trial at your hands as is a private individual. The law is no respecter of persons; all persons, including corporations, stand equal before the law and are to be dealt with as equals in a court of justice.

As stated earlier, it is your duty to determine the facts, and in so doing you must consider only the evidence I have admitted in the case and if admitted for a limited purpose, only for that limited purpose. The term "evidence" includes the sworn testimony of the witnesses and the exhibits admitted in the record.

Remember that any statements, objections, or arguments made by the attorneys are not evidence in this case. The function of lawyers is to point out those things that are most significant or most helpful to their side of the case, and in so doing, to call your attention to certain facts or inferences that might otherwise escape your notice.

In this case, Plaintiff C. K. Greenwood claims that Defendants Indian Ocean and Transport Maritime were negligent and that such negligence was a proximate cause of the injuries and damages sustained by Plaintiff C. K. Greenwood. Specifically, Plaintiff C. K. Greenwood alleges that Defendants were negligent by having a malfunctioning crane on board their ship.

The Plaintiff's claim arises under a specific Federal statute called the Longshore and Harbor Workers' Compensation Act. It ordinarily applies to longshoremen, such as the Plaintiff C. K. Greenwood, who loads cargo on and off ships. This law addresses the duties that a ship owner owes, not to its own employees, but to others, like the Plaintiff, who go aboard the ship. This is not a general negligence case because the ship owner owes only certain specific duties to the Plaintiff.

A ship owner, such as Defendants, must exercise reasonable care before the Plaintiff's employer, a stevedore, begins its operations on the ship. This means that the Defendants must use reasonable care to have the ship and its equipment in such condition that an experienced stevedore would be able, by the exercise of reasonable care, to carry on its work on the ship with reasonable safety to persons and property.

The Defendants had a duty to provide a work space in a condition that allowed the stevedore contractor to carry on its operations with reasonable safety. The Defendants had a duty to warn the stevedore contractor of any hidden dangers of which they knew or should have known about in the exercise of reasonable care. The Defendants were entitled to rely upon the stevedore to

perform its work safely and to provide a safe work place for its employee Plaintiff C. K. Greenwood.

The Defendants had a duty to intervene in the operation of the crane only if they had actual knowledge that an unreasonable risk of harm existed and that the stevedore could not remedy the situation. The stevedore, Plaintiff's employer, was primarily responsible for Plaintiff C. K. Greenwood's safety.

In order to prevail on this claim, Plaintiff C. K. Greenwood must prove by a preponderance of the evidence that:

1. the Defendants knew about the hazard, or should have discovered it in the exercise of reasonable care;

2. the hazard was one which was likely to be encountered by the Plaintiff's employer in the course of his operations in connection with the Defendants' ship; and

3. the hazard was one which the Plaintiff's employer, the stevedore, did not know about, and which would not be obvious to or anticipated by a reasonably competent stevedore in the performance of his work. Even if the hazard was one about which the Plaintiff's employer knew, or which would be obvious or anticipated by a reasonably competent stevedore, the Defendants must exercise reasonable care to avoid the harm to Plaintiff if the hazard was one which Defendants knew or should have known the Plaintiff's employer would not or could not correct and the Plaintiff could not or would not avoid.